United Nations CEDAW/C/AUS/Q/8

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
30 November 2017

Original: English

Committee on the Elimination of Discrimination against Women
Seventieth session
2–20 July 2018
Item 4 of the provisional agenda
Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the eighth periodic report of Australia

Legislative framework

1. In the eighth periodic report of the State party (CEDAW/C/AUS/8) and its annex, reference is made to several federal, state and territorial anti-discrimination laws. Recalling the State party's obligations under articles 1 and 2 of the Convention and the Committee's general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, which underlines that the decentralization of power, through devolution and delegation of government powers in federal States, does not in any way negate or reduce the direct responsibility of the State party's national or federal Government to ensure the full implementation of the Convention throughout the territories under its jurisdiction, as well as indicator 5.1.1 of the Sustainable Development Goals, please provide information on the progress made in ensuring that the provisions of the Convention are applicable throughout the State party, including through the harmonization of existing laws across individual states and territories and the introduction of new laws to fill the remaining gaps. In addition, please provide updated information on any steps taken, since the introduction of a bill by the Senate Constitutional and Legal Affairs Standing Committee in 2010 (CEDAW/C/AUL/CO/7, para. 20), to ensure that the Sex Discrimination Act of 1984 provides comprehensive protection against all forms of discrimination against women in the public and private sectors, encompassing direct and indirect discrimination, in line with article 1 of the Convention. With regard to the Parliamentary Joint Committee on Human Rights (para. 2.18),[1] please provide information on cases where the Convention has been referred to when examining bills and disallowable legislative instruments, and on their outcomes.

Note: The present document is being circulated in English, French and Spanish only.

[1] Unless otherwise indicated, paragraph numbers refer to the eighth periodic report of the State party.

17-21256 (E) 100118

Please recycle

Reservations

2. Please provide updated information on the progress made in withdrawing the State party's reservation to article 11 (2) on maternity leave with pay and a general reservation to the Convention relating to the exclusion of women from combat roles (CEDAW/C/AUS/8, p. 3), particularly in light of the removal of gender restrictions in combat role employment in the Australian Defence Force in 2011 (para. 9.38).

Visibility of the Convention, the Optional Protocol and the Committee's general recommendations

3. Please clarify the status of implementation of the Committee's previous recommendation that the National Judicial College of Australia specifically include the Convention and its Optional Protocol and the Committee's general recommendations in its continuing education programme (CEDAW/C/AUL/CO/7, para. 23). Please also indicate whether the Convention, the Optional Protocol and the Committee's general recommendations are systematically integrated into training and education programmes for lawmakers, prosecutors, lawyers, police officers and other law enforcement officials. In addition, please specify the measures taken to ensure that they are also widely known among the general public, particularly in remote regions of the State party.

Access to justice and remedies

4. Please provide information on the impact of measures, including culturally appropriate legal assistance services, taken to improve access to justice and remedies by women, in particular by those from Aboriginal and Torres Strait Islander backgrounds and migrant and refugee women. Please also clarify what measures are being taken to address the shortage and reduction of funding of the Aboriginal and Torres Strait Islander Legal Service and the Family Violence Prevention Legal Services, which has reportedly created further obstacles for Aboriginal and Torres Strait Islander women seeking adequate legal assistance. Please indicate how women suffering from multiple or intersecting forms of discrimination can bring their claims before administrative or judicial authorities and obtain decisions addressing the grounds on which they are claiming their rights. Please indicate whether the Convention has been invoked in courts and, if it has, the number, nature and outcome of the cases.

Women and peace and security

5. Please provide information on the achievements and challenges in the implementation of the national action plan on women and peace and security for the period 2012–2018. Please also indicate the status of planning for the second national action plan and the inclusion of women in the process, and how the plan will incorporate the principles elaborated in the Committee's general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, as well as the Sustainable Development Goals, particularly with regard to increasing the participation of women in negotiations and decision-making processes in the prevention, management and resolution of conflicts, given the significant role played by the State party in the region and at the international level.

National machinery for the advancement of women

6. It is indicated in the report that the Office for Women has been relocated to the Department of the Prime Minister and Cabinet in order to work across government agencies and thereby deliver stronger economic and social outcomes for women (paras. 1.11 and 1.12). Please indicate what positive difference this relocation has

made, and provide information on specific initiatives and measures taken by the Office at the federal, state and territorial levels to coordinate policies and mechanisms and thereby achieve the full and uniform implementation of the Convention throughout the territory of the State party, and the results achieved. Please indicate whether there are any plans to develop and implement a comprehensive national gender equality policy to address the structural factors leading to gender equality, with a regular monitoring system to assess its effectiveness and impact. Please provide information on the measures taken to ensure the independence and credibility of the Australian Human Rights Commission, in the light of reported attempts by senior politicians to discredit its work, and on the provision of adequate human, technical and financial resources to guarantee its effective functioning.

Temporary special measures

7. Please provide information on the adoption of specific temporary special measures during the reporting period to accelerate the full and equal participation of women in all areas of the Convention where they are disadvantaged or underrepresented, in accordance with article 4 (1) of the Convention, the Committee's general recommendation No. 25 (2004) on temporary special measures and the previous recommendations of the Committee (CEDAW/C/AUL/CO/7, para. 27; CEDAW/C/AUL/CO/5, para. 17), and indicate the results achieved.

Stereotypes and harmful practices

8. Please clarify whether a holistic and systematic strategy has been adopted, beyond the isolated initiatives referred to in the report (paras. 3.2–3.15 and annex), to change social and cultural patterns that lead to the stereotyping, perpetuation or reinforcement of the traditional roles of women and men within the family and society, including with regard to women and girls who experience additional forms of discrimination owing to their indigenous status, ethnicity, nationality, age, disability or other characteristics, as well as to promote a positive and non-stereotypical portrayal of women, particularly in remote and rural areas of the State party.

9. It is indicated in the report that initiatives have been taken to combat harmful practices, such as child and forced marriage (paras. 4.13 and 4.14) and female genital mutilation (para. 10.42). Please provide information on the prevalence of those practices in the State party, disaggregated by the age, nationality and ethnicity of the victims/survivors and perpetrators, the number of prosecutions or other measures taken against the perpetrators and remedies provided to victims/survivors. Please also provide information on the impact of the measures adopted to eliminate those harmful practices.

Gender-based violence against women

10. Noting the observation in the report that data relating to violence against women and their children are generally inconsistent, owing to differences in what is captured, counted and reported across states and territories (para. 14.16), please provide information on the progress made in establishing a coherent and centralized system for collecting and analysing data throughout all jurisdictions of the State party on all forms of gender-based violence against women, including deaths relating to family and domestic violence. Please provide currently available information on gender-based violence against women, disaggregated by type of violence, relationship between victim/survivor and perpetrator, age, nationality, ethnicity, indigenous status, disability and geographical location, including: the number of complaints about gender-based violence against women; the prosecution and conviction of perpetrators and sentences imposed on them; and remedies provided to victims/survivors.

11. Please provide information on measures taken to ensure the effective implementation of the third action plan of the national plan to reduce violence against women and their children for the period 2010–2022, including: the type of mechanism in place to monitor its implementation independently; what is done to ensure the participation of women who are affected by gender-based violence, including Aboriginal and Torres Strait Islander women, migrant and refugee women, women from ethnic and religious minorities, and women with disabilities, in the development and implementation of the plan; the resources allocated to implement the plan; and the results achieved since the plan was launched in 2010. Given ongoing reports of disproportionately high rates of gender-based violence against Aboriginal and Torres Strait Islander women, please provide information on whether the State party has taken any measures to follow up on the recommendation made by the Special Rapporteur on violence against women, its causes and consequences, at the end of her visit to the State party in February 2017, to adopt a specific national action plan on violence against Aboriginal and Torres Strait Islander women. With regard to assistance provided to victims/survivors of gender-based violence, please provide information on the availability and accessibility of shelters, counselling and legal advice within and throughout all jurisdictions of the State party (para. 14.41) with the competence and capacity to meet the specific needs of women from marginalized groups, such as Aboriginal and Torres Strait Islander women, women with disabilities, women living in rural and remote areas, and migrant and refugee women, who may also require interpretation services and assistance with complex legal, immigration and protection matters.

Trafficking and exploitation of prostitution

12. Please provide data covering the past five years on the number of victims/survivors of trafficking in persons and exploitation of prostitution, disaggregated by sex, age, ethnicity and nationality, as well as on the forms of their exploitation. Please provide information on the number of prosecutions and convictions of perpetrators of such offences, including those who were involved in the trafficking of 212 women and girls between 2004 and 2014 referred to in the report (para. 4.8), and the remedies provided to victims/survivors. Please indicate whether a comprehensive federal compensation scheme for survivors of trafficking has been established, as recommended by the Special Rapporteur on trafficking in persons, especially women and children, following her visit to the State party in November 2011.

Participation in political and public life

13. Please provide updated statistics on the gender composition of all legislative, executive and judicial bodies at the federal, state and territorial levels, as well as of the military and the police, independent administrative authorities and key consultative State bodies, the senior civil service administration, the diplomatic service, and company boards and management. Please provide information on the steps taken to increase the number of women in elected decision-making bodies, including through the adoption of temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25. In particular, please provide information on measures taken or envisaged to introduce a quota system aimed at reaching gender parity in Parliament and to develop targeted training and mentoring programmes on leadership and negotiation skills for potential women candidates and leaders in the public sector, including those who are underrepresented, such as women belonging to ethnic and religious minority groups, Aboriginal and Torres Strait Islander women and women with disabilities.

Nationality

14. Please provide information on the rate of birth registration in the State party, including of Aboriginal and Torres Strait Islander children. In the light of information indicating that a significant percentage of children born to Aboriginal and Torres Strait Islander mothers are not registered, please indicate what measures are being taken to address the situation and to ensure comprehensive and universal access to birth registration and birth certificates throughout the State party.

Education

15. In order to identify the needs of specific groups of children and to adopt appropriate measures to eliminate disparities in access to education and educational attainment, please provide data on the enrolment, dropout and completion rates at all levels of education, disaggregated by sex, ethnicity, indigenous status, disability and geographical location during the reporting period. Please also provide disaggregated data on the prevalence of sex segregation in vocational and higher education, and the impact of apprenticeship programmes on encouraging women to take up traditionally male-dominated trades (para. 8.19). In the light of the information in the report regarding programmes to support disadvantaged groups in gaining access to education (para. 8.12), please indicate their impact in terms of increasing the enrolment and retention rates of girls from disadvantaged groups. Please further clarify whether any measures have been taken to implement the Committee's previous recommendation to ensure access to high-quality education, including postgraduate education and vocational training, for Aboriginal and Torres Strait Islander women (CEDAW/C/AUL/CO/7, para. 41).

Employment

16. According to information available to the Committee, gender segregation at the occupation, role and industry levels persists, and women are more likely to be employed in lower-paid and insecure jobs, which affects their economic security and leads to the persistence of the gender wage gap and higher levels of poverty among older women. Please provide updated statistical data on occupational segregation, the gender wage gap and the impact of measures adopted by the State party (paras. 9.1–9.13 and 9.31–9.34). Please also provide data on the employment rate among women from marginalized groups, including women from ethnic minorities, Aboriginal and Torres Strait Islander women, women with disabilities and older women, and the industries in which they work, and the impact of measures adopted by the State party to increase their employment rate and access to diverse fields of employment. Please provide information on measures taken to ensure that women are effectively protected from sexual harassment in the workplace.

Health

17. It is indicated in the report that laws relating to abortion are a matter for the states and territories, and that the Government has no constitutional powers in the area (para. 10.43). Please provide information on the laws of each state and territory concerning abortion, indicating in particular the laws that criminalize abortion. Recalling the Committee's general recommendation No. 28, which underlines that the decentralization of power, through devolution and delegation of government powers in federal States, does not in any way negate or reduce the direct responsibility of the State party's national or federal Government to ensure full the implementation of the Convention throughout the territories under its jurisdiction, please indicate the measures adopted or envisaged to ensure that abortion laws across states and

territories are harmonized and in compliance with the Convention and the Committee's jurisprudence with regard to abortion.

Rural women

18. According to the information available to the Committee, women living in rural, regional and remote areas are at a heightened risk of being subjected to negative and discriminatory gender-based stereotypes and attitudes and of experiencing domestic violence, sexual assault, sexual harassment in the workplace and economic insecurity. They also reportedly face obstacles in obtaining access to justice and remedies, as well as appropriate and accessible support services. Please provide information on the measures taken to address such forms of discrimination affecting women in rural, regional and remote areas, and on their impact.

Aboriginal and Torres Strait Islander women

19. Please provide information on the impact of measures, including the "Closing the Gap" strategy (paras. 2.33 and 2.34), adopted to address the root causes behind why, and areas in which, Aboriginal and Torres Strait Islander women and girls continue to lack substantive equality. Please clarify how the effective participation of Aboriginal and Torres Strait Islander women in the development and implementation of such measures is guaranteed. Given that the life expectancy at birth of Aboriginal and Torres Strait Islander women is, on average, 9.5 years lower than that of non-indigenous women (para. 10.4), please provide information on the root causes of that situation and the measures adopted to address them, and progress thus far in reaching the target of closing the life expectancy gap by 2031 (para. 10.23).

Women in detention

20. Please provide statistical data, disaggregated by age, disability, ethnicity, indigenous status and geographical location, on the number of women and girls in prison. Please provide further information on the measures taken by the State party to address "discrimination against women in prison and issues of women from indigenous and culturally and linguistically diverse backgrounds" referred to in the report (para. 13.12), and clarify in particular the steps taken to ensure that culturally appropriate and independent complaints mechanisms are available in all prisons, protect women from gender-based violence in prisons and ensure that the individual needs of each woman, including those who are pregnant or mothers, are taken into account during incarceration. Given reports of overrepresentation of women with disabilities, particularly indigenous women with disabilities, please clarify what steps have been taken to ensure that women with disabilities have access to appropriate services to address their specific needs, including those relating to gender-based violence prior to incarceration, are reasonably accommodated and not held in solitary confinement in detention units, and that women and girls with disabilities are effectively protected from bullying and physical and sexual violence.

Women and girls with disabilities

21. According to information available to the Committee, women and girls with disabilities face heightened risks of violence, particularly sexual violence, by a greater number of perpetrators across a broader range of settings, including in institutional, residential and other care settings, yet the measures adopted by the State party in terms of legislation, policy and frameworks for the provision of services reportedly focus largely on addressing domestic and family violence and sexual assault. Please indicate the measures taken to combat gender-based violence against women and girls with disabilities, particularly in institutional, residential and other care settings, and provide information on the status of implementation of the

recommendations made under the "Stop the Violence" project (para. 14.11). Given reports of neglect and abuse of women and girls with disabilities in institutional, residential and other care settings, including cases that have led to deaths, please also provide information on the measures taken to address such violations. Please indicate the measures taken to prohibit the use of involuntary sterilization of women and girls with disabilities, as previously recommended by the Committee (CEDAW/C/AUL/CO/7, para. 43).

Refugees, asylum-seeking and stateless women and girls

22. As clarified in the Committee's general recommendation No. 28, the obligations of the State party apply without discrimination both to citizens and non-citizens, including refugees, asylum seekers and stateless persons within its territory or effective control, even if not situated within the territory, and the State party is responsible for all its actions affecting human rights, regardless of whether the affected persons are in its territory. Please provide information on the measures taken to: close the regional processing centres run and staffed by private companies hired by the Government and funded by the State party; improve, in the meantime, living conditions for refugees and asylum seekers in Nauru, including by addressing the specific needs of girls, older women, pregnant women, women with infants, women with disabilities and victims/survivors of gender-based violence; provide accessible and appropriate medical services, including access to safe and legal abortion, sexual and reproductive health care, mental health care, and support for pregnant women; ensure that refugee and asylum-seeking women and girls are effectively protected from all forms of gender-based violence, including rape and sexual abuse, that the perpetrators of such violence are held accountable and that victims/survivors are provided with effective remedies; provide access to education for refugee and asylum-seeking girls; and ensure that all refugee and asylum-seeking children who would otherwise be stateless are granted nationality.